

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 37</p> <p>1 me aware of that.</p> <p>2 <b>Q Do you remember when you were</b></p> <p>3 <b>made aware of that?</b></p> <p>4 A No.</p> <p>5 <b>Q Let's see if we can get some type</b></p> <p>6 <b>of idea. If it was filed in maybe April of</b></p> <p>7 <b>2004, do you know if they notified you</b></p> <p>8 <b>sometime soon after that, or was it more</b></p> <p>9 <b>recently?</b></p> <p>10 A I don't remember.</p> <p>11 <b>Q You can't give me an estimate?</b></p> <p>12 <b>Was it within the last six months?</b></p> <p>13 A No, I don't remember.</p> <p>14 <b>Q Okay. And what did the legal</b></p> <p>15 <b>department -- well, sorry. Were you also</b></p> <p>16 <b>made aware that she had filed a lawsuit</b></p> <p>17 <b>against the department?</b></p> <p>18 A Yes.</p> <p>19 <b>Q Do you remember when you were</b></p> <p>20 <b>made aware of that?</b></p> <p>21 A No.</p> <p>22 <b>Q I'm going to jump back in to what</b></p> <p>23 <b>we were talking about earlier, about job</b></p>	<p style="text-align: right;">Page 39</p> <p>1 <b>Q Do you recall playing any role in</b></p> <p>2 <b>that position being opened?</b></p> <p>3 A As the appointing authority, yes.</p> <p>4 <b>Q And do you know if someone was in</b></p> <p>5 <b>that position prior to it being opened, or</b></p> <p>6 <b>was this a newly created position?</b></p> <p>7 A I don't think anybody was in that</p> <p>8 position before. But that's -- my memory</p> <p>9 may not be good.</p> <p>10 <b>Q Well, that's all we've got.</b></p> <p>11 <b>That's fine. That's all I'm asking about is</b></p> <p>12 <b>what you remember. So do you remember who</b></p> <p>13 <b>received that position?</b></p> <p>14 A There are two Quality Assurance</p> <p>15 positions in -- there are three in Region</p> <p>16 III, so you would have to give me the</p> <p>17 answer. There are three Quality Assurance</p> <p>18 positions.</p> <p>19 (Whereupon Plaintiff's</p> <p>20 Exhibit Number 69 was marked and</p> <p>21 attached to the deposition.)</p> <p>22 BY MR. WILSON</p> <p>23 <b>Q Okay. This is Plaintiff's</b></p>
<p style="text-align: right;">Page 38</p> <p>1 positions opening. And I'm going to ask you</p> <p>2 if you can recall anything about this</p> <p>3 Planning and Quality Assurance Specialist II</p> <p>4 position that was opened in Region III in</p> <p>5 September of 2002? This is Plaintiff's</p> <p>6 Exhibit 68.</p> <p>7 A What specifically would you like</p> <p>8 to know?</p> <p>9 (Whereupon Plaintiff's</p> <p>10 Exhibit Number 68 was marked and</p> <p>11 attached to the deposition.)</p> <p>12 BY MR. WILSON</p> <p>13 <b>Q Do you recall a Planning and</b></p> <p>14 <b>Quality Assurance II position being opened</b></p> <p>15 <b>in Region III in September 2002?</b></p> <p>16 A Until I looked in the exhibits</p> <p>17 for the department for this case, no, I</p> <p>18 would not specifically remember the date</p> <p>19 that this particular job was opened.</p> <p>20 <b>Q Well, when you looked at that</b></p> <p>21 <b>document, did it refresh your memory at all</b></p> <p>22 <b>about that position?</b></p> <p>23 A That it was open at that time?</p>	<p style="text-align: right;">Page 40</p> <p>1 <b>Exhibit 69, stating Daphne Rosalis received</b></p> <p>2 <b>that position.</b></p> <p>3 A Okay.</p> <p>4 <b>Q Does that help?</b></p> <p>5 A That's fine.</p> <p>6 <b>Q Do you know Ms. Rosalis?</b></p> <p>7 A Yes.</p> <p>8 <b>Q She's a white employee, correct?</b></p> <p>9 A She's a female of Caucasian race,</p> <p>10 that's correct.</p> <p>11 <b>Q Did you play any role in her</b></p> <p>12 <b>selection to that position?</b></p> <p>13 A A distant role. First of all, I</p> <p>14 signed, as the appointing authority, for it</p> <p>15 to be filled. As any of my executive staff</p> <p>16 do as they are beginning to fill positions</p> <p>17 or have interviewed to fill them, during our</p> <p>18 weekly conversation, we probably talked</p> <p>19 about it. If you're saying did I have a</p> <p>20 hand in it, no.</p> <p>21 <b>Q Who is B.C. Farnum?</b></p> <p>22 A Who is B.C. Farnum. A professor</p> <p>23 at Troy State University.</p>

10 (Pages 37 to 40)

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<p style="text-align: right;">Page 49</p> <p>1 A They would have come to me. He</p> <p>2 would have come to me to ask to fill the</p> <p>3 position.</p> <p>4 Q Mr. Farnum would have?</p> <p>5 A Uh-huh.</p> <p>6 Q And in this example we're talking</p> <p>7 about, is that someone from central office,</p> <p>8 someone would go to Mr. Farnum and say, "I</p> <p>9 would like to open the Planning and Quality</p> <p>10 Assurance position"?</p> <p>11 A No.</p> <p>12 Q I'm just wondering how it gets</p> <p>13 created, because I'm not understanding at</p> <p>14 all.</p> <p>15 A All right. Quality in the -- in</p> <p>16 the division's table of organization, staff</p> <p>17 in Quality Enhancement report to the</p> <p>18 Director in Quality Enhancement in the</p> <p>19 central office.</p> <p>20 Q Okay. And would someone from</p> <p>21 central office decide they need a new</p> <p>22 position?</p> <p>23 A The Director of Quality</p>	<p style="text-align: right;">Page 51</p> <p>1 A White.</p> <p>2 Q Ms. Jewel Pitts?</p> <p>3 A Black.</p> <p>4 Q Black?</p> <p>5 A African-American.</p> <p>6 Q And at the top here, it appears</p> <p>7 to be the candidates for the position?</p> <p>8 A Appears to be.</p> <p>9 Q Do you know Ms. Yolanda Thomas?</p> <p>10 A Yes, I know who she is.</p> <p>11 Q She's a black female, correct?</p> <p>12 A Correct.</p> <p>13 Q Ms. Daphne Rosalis, we already</p> <p>14 discussed received the job, is a white</p> <p>15 female?</p> <p>16 A Correct.</p> <p>17 Q Ms. Ezell is a black female?</p> <p>18 A Yes, I know who she is.</p> <p>19 Q Do you know Diane Brewer?</p> <p>20 A No.</p> <p>21 Q Obviously, you know</p> <p>22 Ms. Blackledge is a black --</p> <p>23 A I met Ms. Blackledge.</p>
<p style="text-align: right;">Page 50</p> <p>1 Enhancement.</p> <p>2 Q Mr. Farnum?</p> <p>3 A Right.</p> <p>4 Q It also says in the</p> <p>5 interrogatories that the panel that made the</p> <p>6 decision, and looking at Plaintiff's Exhibit</p> <p>7 70, does this column of people here to the</p> <p>8 left, does that appear to be the panel?</p> <p>9 A It appears to be, yes.</p> <p>10 Q And let's go through and ask if</p> <p>11 you know these people. Mr. B.C. Farnum, is</p> <p>12 he white or black?</p> <p>13 A White.</p> <p>14 Q Marilyn Benson, is she white or</p> <p>15 black?</p> <p>16 A Black.</p> <p>17 Q Joe Meters, is he white or black?</p> <p>18 A He's our Director of Consumer</p> <p>19 Empowerment. He happens to be white, but</p> <p>20 happens to be a person with cognitive</p> <p>21 disability.</p> <p>22 Q Okay. Ms. Alice Wigon, is she</p> <p>23 black or white?</p>	<p style="text-align: right;">Page 52</p> <p>1 Q The interrogatories say that the</p> <p>2 panel made a recommendation to you about</p> <p>3 that position. Do you recall that?</p> <p>4 A The panel didn't. Mr. Farnum</p> <p>5 probably in a regularly scheduled weekly</p> <p>6 meeting said, "We interviewed it, this is</p> <p>7 the results, the panel." That's just the</p> <p>8 way administration works. You know, you</p> <p>9 have a meeting with your staff before they</p> <p>10 go about hiring somebody, they would have</p> <p>11 discussed it with me. That's normal</p> <p>12 everyday activity.</p> <p>13 Q And then who makes that decision?</p> <p>14 A They make the decision if I agree</p> <p>15 with -- I mean, you know, they tell me and I</p> <p>16 don't disagree with them, they make the</p> <p>17 decision.</p> <p>18 Q In this instance Mr. Farnum --</p> <p>19 A Would have made the decision.</p> <p>20 Q He made a recommendation to you</p> <p>21 and you approved it?</p> <p>22 A I don't do anything formal, if</p> <p>23 that's what you're asking.</p>

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<p style="text-align: right;">Page 53</p> <p>1     <b>Q</b> Okay.</p> <p>2     A After I sign the request to fill</p> <p>3 as the appointing authority, I don't make</p> <p>4 any formal --</p> <p>5     <b>Q</b> So for this Planning and Quality</p> <p>6 Assurance II position, Mr. Farnum made the</p> <p>7 decision to hire Ms. Daphne reRosalis?</p> <p>8     MR. TARVER: Object to the form.</p> <p>9     A He -- yeah. Yeah, essentially.</p> <p>10 She reports to him.</p> <p>11     <b>Q</b> Do you recall if he discussed</p> <p>12 anything about Ms. Rosalis with you?</p> <p>13     A As a part of our weekly meetings</p> <p>14 before he hired someone, he would have, yes.</p> <p>15 He would have discussed that.</p> <p>16     <b>Q</b> And do you remember him</p> <p>17 discussing anything about his reasons for</p> <p>18 selecting her?</p> <p>19     A No, I don't remember that.</p> <p>20     <b>Q</b> Do you remember discussing her</p> <p>21 credentials or anything?</p> <p>22     A He may have. I don't remember.</p> <p>23 I'm not going to say that he didn't and are</p>	<p style="text-align: right;">Page 55</p> <p>1     (Whereupon Plaintiff's</p> <p>2 Exhibit Number 74 was marked and</p> <p>3 attached to the deposition.)</p> <p>4 BY MR. WILSON</p> <p>5     <b>Q</b> This is Plaintiff's Exhibit 74.</p> <p>6 I'll just ask if you know what this document</p> <p>7 is.</p> <p>8     A What it is?</p> <p>9     <b>Q</b> Yes.</p> <p>10     A It says it's an applicant</p> <p>11 evaluation form.</p> <p>12     <b>Q</b> Are you familiar with those</p> <p>13 documents?</p> <p>14     A Yeah. I've seen one. Usually,</p> <p>15 we don't get them.</p> <p>16     <b>Q</b> Is that just something, to your</p> <p>17 knowledge, an employee would fill out if</p> <p>18 they were applying for a position?</p> <p>19     A No, personnel does this. It's a</p> <p>20 Personnel worksheet.</p> <p>21     <b>Q</b> So Personnel filled that on an</p> <p>22 applicant?</p> <p>23     A Correct.</p>
<p style="text-align: right;">Page 54</p> <p>1 not going to say he did.</p> <p>2     <b>Q</b> You don't remember one way or the</p> <p>3 other?</p> <p>4     A Correct.</p> <p>5     (Whereupon Plaintiff's</p> <p>6 Exhibit Number 73 was marked and</p> <p>7 attached to the deposition.)</p> <p>8 BY MR. WILSON</p> <p>9     <b>Q</b> So we have some sort of order</p> <p>10 here, this is Plaintiff's Exhibit 73. This</p> <p>11 appears to be Ms. Daphne Rosalis' resume,</p> <p>12 and I will just ask you if you've ever seen</p> <p>13 that before?</p> <p>14     A The most recent was in the book</p> <p>15 they prepared for me.</p> <p>16     <b>Q</b> Okay. You don't recall seeing</p> <p>17 that back when Mr. Farnum was discussing the</p> <p>18 position?</p> <p>19     A I don't remember that I did.</p> <p>20     <b>Q</b> Don't know one way or the other?</p> <p>21     A I don't remember one way or the</p> <p>22 other.</p> <p>23</p>	<p style="text-align: right;">Page 56</p> <p>1     <b>Q</b> I'm asking you if you know is it</p> <p>2 common to ask applicants about if they've</p> <p>3 been convicted of a felony?</p> <p>4     A Yes. It's on the application.</p> <p>5     <b>Q</b> Okay. If you will speak up?</p> <p>6     MR. TARVER: She's asking me and</p> <p>7 I'm not answering.</p> <p>8     A He's wasn't answering. I'm sure</p> <p>9 it's on the application blank.</p> <p>10     <b>Q</b> Just from now on, no</p> <p>11 conversations. If you want to take a break,</p> <p>12 that's fine, just let me know. It gets</p> <p>13 confusing when we're muttering stuff under</p> <p>14 our breath.</p> <p>15     A I do that frequently, I'm an old</p> <p>16 lady.</p> <p>17     <b>Q</b> I do too.</p> <p>18     A You're a young man.</p> <p>19     (Whereupon Plaintiff's</p> <p>20 Exhibit Number 75 was marked and</p> <p>21 attached to the deposition.)</p> <p>22 BY MR. WILSON</p> <p>23     <b>Q</b> This is Plaintiff's Exhibit 75.</p>

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<p style="text-align: right;">Page 85</p> <p>1 Q So the answer is no?</p> <p>2 A What was the question?</p> <p>3 Q I don't know. You answered it, I</p> <p>4 thought you understood it. I asked if you</p> <p>5 had any conversations with Fordyce Mitchell</p> <p>6 about moving Mickey Groggle to the planning</p> <p>7 quality assurance position?</p> <p>8 A He had no -- now, I don't know</p> <p>9 that I did. No. He would have not have any</p> <p>10 reason to discuss that.</p> <p>11 Q Did you have in conversations</p> <p>12 with Mr. Ervin about moving Mickey Groggel</p> <p>13 to the Planning and Quality II Assurance</p> <p>14 position?</p> <p>15 A Not that I'm aware of.</p> <p>16 Q And did you have any conversation</p> <p>17 with Susan Stuardi about moving Mickey</p> <p>18 Groggel to the Planning and Quality II</p> <p>19 Assurance position?</p> <p>20 A Not that I'm aware of.</p> <p>21 Q Do you know Kathi Allen?</p> <p>22 A No.</p> <p>23 Q Have you ever heard that name?</p>	<p style="text-align: right;">Page 87</p> <p>1 their jobs would have an opportunity to have</p> <p>2 a job when the closures were over.</p> <p>3 Q And I don't want to -- let's try</p> <p>4 to listen carefully and answer carefully</p> <p>5 about these little series of questions here,</p> <p>6 and I'm going to try to ask them the best I</p> <p>7 can. I know I probably don't always ask the</p> <p>8 best questions. Earlier we had talked about</p> <p>9 how it would be against the rules for</p> <p>10 someone to select somebody for a position</p> <p>11 and then go through the interview position</p> <p>12 and hire them, is that correct? Do you</p> <p>13 remember talking about that?</p> <p>14 A If it were possible to preselect</p> <p>15 with the panel, as I indicated, that's the</p> <p>16 check and balance system.</p> <p>17 Q Okay. Is that something -- was</p> <p>18 that the department tried to do for people</p> <p>19 that were working at the center -- a center</p> <p>20 that was closing down, though, to try to</p> <p>21 find them positions?</p> <p>22 A What we did was made available</p> <p>23 the opportunity for them to apply. We</p>
<p style="text-align: right;">Page 86</p> <p>1 A Yes, I heard this name. You</p> <p>2 asked me if knew her.</p> <p>3 Q I know.</p> <p>4 A I didn't know she was white until</p> <p>5 they told me this week.</p> <p>6 Q Okay. Do you know anything about</p> <p>7 her employment with the department ending in</p> <p>8 February of '04?</p> <p>9 A Yes.</p> <p>10 Q What do you know about that?</p> <p>11 A The department closed three of</p> <p>12 the developmental centers in '03, '04, and</p> <p>13 as a part of the closure, the Governor asked</p> <p>14 the Commissioner and, therefore, asked us to</p> <p>15 make every opportunity available to people</p> <p>16 who would lose their jobs because of the</p> <p>17 closure of the facilities. We had three</p> <p>18 developmental centers and two MI facilities</p> <p>19 closing during -- between October '03 and</p> <p>20 February -- and March 1st '04. And we did,</p> <p>21 we made every possibility. The Governor</p> <p>22 even froze vacancies at various other</p> <p>23 agencies so that people who were losing</p>	<p style="text-align: right;">Page 88</p> <p>1 didn't just say, "Here is a position,"</p> <p>2 especially those at the executive level or</p> <p>3 -- in fact, all of them, all except the</p> <p>4 direct care staff, we did say, "Here is a</p> <p>5 position you can go into." But we had</p> <p>6 people actually interview for those</p> <p>7 positions. If you look at here --</p> <p>8 Q You're referring to Plaintiff's</p> <p>9 Exhibit 11?</p> <p>10 A Yes, eleven. Groggel, Allen,</p> <p>11 Packer. I don't know who that is. Ezell,</p> <p>12 Shappell all were losing their jobs. We</p> <p>13 didn't give it to anyone; they applied for</p> <p>14 it.</p> <p>15 Q So they just had the opportunity</p> <p>16 to apply?</p> <p>17 A To apply for, yes, and were told.</p> <p>18 Q Go ahead. And were what?</p> <p>19 A And we were told to give, if all</p> <p>20 being equal, to those people who were</p> <p>21 getting the -- getting -- losing their jobs.</p> <p>22 If they qualified and all being equal, they</p> <p>23 should be given preference, that's correct.</p>

22 (Pages 85 to 88)

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